

§ 1.21-3

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limitation in paragraph (b)(1)(ii) of this section, the lesser of V's and W's earned income is zero. V and W may not take the expenses into account under section 21.

(d) *Cross-reference.* For an additional limitation on the credit under section 21, see section 26.

[T.D. 9354, 72 FR 45341, Aug. 14, 2007]

§ 1.21-3 Special rules applicable to married taxpayers.

(a) *Joint return requirement.* No credit is allowed under section 21 for taxpayers who are married (within the meaning of section 7703 and the regulations thereunder) at the close of the taxable year unless the taxpayer and spouse file a joint return for the taxable year. See section 6013 and the regulations thereunder relating to joint returns of income tax by husband and wife.

(b) *Taxpayers treated as not married.* The requirements of paragraph (a) of this section do not apply to a taxpayer who is legally separated under a decree of divorce or separate maintenance or who is treated as not married under section 7703(b) and the regulations thereunder (relating to certain married taxpayers living apart). A taxpayer who is treated as not married under this paragraph (b) is not required to take into account the earned income of the taxpayer's spouse for purposes of applying the earned income limitation on the amount of employment-related expenses under § 1.21-2(b).

(c) *Death of married taxpayer.* If a married taxpayer dies during the taxable year and the survivor may make a joint return with respect to the deceased spouse under section 6013(a)(3), the credit is allowed for the year only if a joint return is made. If, however, the surviving spouse remarries before the end of the taxable year in which the deceased spouse dies, a credit may be allowed on the decedent spouse's separate return.

[T.D. 9354, 72 FR 45341, Aug. 14, 2007]

§ 1.21-4 Payments to certain related individuals.

(a) *In general.* A credit is not allowed under section 21 for any amount paid by the taxpayer to an individual—

(1) For whom a deduction under section 151(c) (relating to deductions for personal exemptions for dependents) is allowable either to the taxpayer or the taxpayer's spouse for the taxable year;

(2) Who is a child of the taxpayer (within the meaning of section 152(f)(1) for taxable years beginning after December 31, 2004, and section 151(c)(3) for taxable years beginning before January 1, 2005) and is under age 19 at the close of the taxable year;

(3) Who is the spouse of the taxpayer at any time during the taxable year; or

(4) Who is the parent of the taxpayer's child who is a qualifying individual described in § 1.21-1(b)(1)(i) or (b)(2)(i).

(b) *Payments to partnerships or other entities.* In general, paragraph (a) of this section does not apply to services performed by partnerships or other entities. If, however, the partnership or other entity is established or maintained primarily to avoid the application of paragraph (a) of this section to permit the taxpayer to claim the credit, for purposes of section 21, the payments of employment-related expenses are treated as made directly to each partner or owner in proportion to that partner's or owner's ownership interest. Whether a partnership or other entity is established or maintained to avoid the application of paragraph (a) of this section is determined based on the facts and circumstances, including whether the partnership or other entity is established for the primary purpose of caring for the taxpayer's qualifying individual or providing household services to the taxpayer.

(c) *Examples.* The provisions of this section are illustrated by the following examples:

Example 1. During 2007, X pays \$5,000 to her mother for the care of X's 5-year old child who is a qualifying individual. The expenses otherwise qualify as employment-related expenses. X's mother is not her dependent. X may take into account under section 21 the amounts paid to her mother for the care of X's child.

Example 2. Y is divorced and has custody of his 5-year old child, who is a qualifying individual. Y pays \$6,000 during 2007 to Z, who is his ex-wife and the child's mother, for the care of the child. The expenses otherwise qualify as employment-related expenses. Under paragraph (a)(4) of this section, Y may

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not take into account under section 21 the amounts paid to Z because Z is the child's mother.

Example 3. The facts are the same as in Example 2, except that Z is not the mother of Y's child. Y may take into account under section 21 the amounts paid to Z.

[T.D. 9354, 72 FR 45341, Aug. 14, 2007]

§ 1.24–1 Partial credit allowed for certain other dependents.

(a) *In general.* For purposes of section 24(h)(4)(A), a taxpayer may be eligible to increase the credit determined under section 24(a) by \$500 for a dependent of the taxpayer, as defined in section 152, other than a qualifying child described in section 24(c).

(b) *Applicability date.* This section applies to taxable years beginning on or after October 13, 2020.

[T.D. 9913, 85 FR 64385, Oct. 13, 2020]

§ 1.25–1T Credit for interest paid on certain home mortgages (Temporary).

(a) *In general.* Section 25 permits States and political subdivisions to elect to issue mortgage credit certificates in lieu of qualified mortgage bonds. An individual who holds a qualified mortgage credit certificate (as defined in § 1.25–3T) is entitled to a credit against his Federal income taxes. The amount of the credit depends upon (1) the amount of mortgage interest paid or accrued during the year and (2) the applicable certificate credit rate. See § 1.25–2T. The amount of the deduction under section 163 for interest paid or accrued during any taxable year is reduced by the amount of the credit allowable under section 25 for such year. See § 1.163–6T. The holder of a qualified mortgage credit certificate may be entitled to additional withholding allowances. See section 3402 (m) and the regulations thereunder.

(b) *Definitions.* For purposes of §§ 1.25–2T through 1.25–8T and this section, the following definitions apply:

(1) *Mortgage.* The term “mortgage” includes deeds of trust, conditional sales contracts, pledges, agreements to hold title in escrow, and any other form of owner financing.

(2) *State.* (i) The term “State” includes a possession of the United States and the District of Columbia.

(ii) *Mortgage credit certificates* issued by or on behalf of any State or political subdivision (“governmental unit”) by constituted authorities empowered to issue such certificates are the certificates of such governmental unit.

(3) *Qualified home improvement loan.* The term “qualified home improvement loan” has the meaning given that term under section 103A (1)(6) and the regulations thereunder.

(4) *Qualified rehabilitation loan.* The term “qualified rehabilitation loan” has the meaning given that term under section 103A (1)(7)(A) and the regulations thereunder.

(5) *Single-family and owner-occupied residences.* The terms “single-family” and “owner-occupied” have the meaning given those terms under section 103A (1)(9) and the regulations thereunder.

(6) *Constitutional home rule city.* The term “constitutional home rule city” means, with respect to any calendar year, any political subdivision of a State which, under a State constitution which was adopted in 1970 and effective on July 1, 1971, had home rule powers on the 1st day of the calendar year.

(7) *Targeted area residence.* The term “targeted area residence” has the meaning given that term under section 103A (k) and the regulations thereunder.

(8) *Acquisition cost.* The term “acquisition cost” has the meaning given that term under section 103A (1)(5) and the regulations thereunder.

(9) *Average area purchase price.* The term “average area purchase price” has the meaning given that term under subparagraphs (2), (3), and (4) of section 103A (f) and the regulations thereunder. For purposes of this paragraph (b)(9), all determinations of average area purchase price shall be made with respect to residences as that term is defined in section 103A and the regulations thereunder.

(10) *Total proceeds.* The “total proceeds” of an issue is the sum of the products determined by multiplying—

(i) The certified indebtedness amount of each mortgage credit certificate issued pursuant to such issue, by